

REMARKS

In accordance with the foregoing, claims 12, 15 – 17, 20, 27, 28 and 35 – 38 are pending. The claims are not amended herein.

Rejection of claims 12 and 38 under the judicially created doctrine of obviousness-type double patenting over copending U.S. Patent Application Serial No. 10/737,837

At page 2 of the Office Action, claims 12 and 38 were rejected under the judicially created doctrine of obviousness-type double patenting over claim 18 and 28 of copending U.S. Patent Application Serial No. 10/737,837. Since the conflicting claims have not yet been patented, Applicants prefer to postpone addressing the merits of the rejection until U.S. Patent Application Serial No. 10/737,837 has been allowed or until the obviousness-type double patenting is the only remaining issue in the present application. (see M.P.E.P Section 804.I.B)

Rejection of claims 12, 15 – 17, 20, 27 28 and 35 – 38 under 35 U.S.C. §103 over Watanabe in view of Morishita and Pedicini

At page 3 of the Office Action, claims 12, 15 – 17, 20, 27, 28 and 35 – 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe (U.S. Patent 6,492,058) in view of Morishita (U.S. Patent 5,976,729) and Pedicini (U.S. Patent 5,188,909). The Examiner alleged that Watanabe teaches a positive temperature coefficient (PTC) safety device connected by leads to the terminals of a battery. The Examiner acknowledged that Watanabe does not describe the materials used for the leads and the housing. The Examiner further acknowledged that Watanabe does not describe the PTC element being located such that the PTC element is separated from the battery can by the lead. The Examiner alleged that Morishita teaches a lithium ion cell with an external protective circuit for controlling the cell voltage to prevent overcharge and over-discharge. The Examiner alleged that Morishita describes that an outer battery can may be made from aluminum and the lead may be made from a first material of nickel and a second material of aluminum. The Examiner further alleged that Morishita describes that the components are welded together using ultrasonic welding or that other materials can be used in making the leads with other welding techniques. The Examiner took the position that it would have been obvious to pick lead materials based on the use in the battery and the style of welding needed. Regarding the location of the PTC element, the Examiner alleged that the PTC element functions the same regardless of whether the PTC element is located right next to the

battery or in a remote location. The Examiner further alleged that Watanabe teaches locating the PTC element away from the battery by placing it on a circuit board covered with insulating paper. The Examiner took the position that it would have been obvious to modify the PTC element of Watanabe to locate the PTC element such that the lead is between the battery and the PTC element on the alleged grounds that relocating the element to serve the same purpose and in the same manner is within the means of one of ordinary skill in the art. The Examiner further alleged that Pedicini teaches sealing the opening of the battery with a cap assembly that has a vent and that a person skilled in the art would be motivated to modify the battery of Watanabe with a cap vent to promote a safer and more efficient battery. For the following reasons, this rejection is traversed and reconsideration is requested.

Watanabe, Morishita and Pedicini, singly or combined, do not describe a first lead electrically coupled to a first terminal including a layer of a first material or an alloy thereof and a cladding layer made of a second material or an alloy thereof and wherein the cladding layer is connected to the can, as recited by independent claims 12 and 38. In particular, contrary to what is alleged by the Examiner, Morishita does not describe a lead made up of nickel and aluminum. The "lead plate" mentioned by the Examiner is not a lead, but instead is a structure attached to the bottom of the can of Morishita to which a lead is attached (see, for example, FIG. 7 of Morishita). Watanabe is silent regarding the composition of the lead and Pedicini does not mention a lead at all.

Moreover, regarding the limitation that the PTC element is separated from the can by the portion of the first lead, Watanabe, Morishita and Pedicini, singly or combined, do not describe this feature. Contrary to what is alleged by the Examiner, Watanabe does not teach locating a PTC element away from the battery (FIG. 1 of Watanabe does not show a PTC element). Moreover, Morishita and Pedicini do not describe a PTC element at all, so Morishita does not teach locating a PTC element on top of a lead as alleged by the Examiner. Therefore, there is no teaching in the references, singly or combined, to locate the PTC element anywhere besides in contact with the battery case, according to the battery shown in FIG. 10.

Therefore, the rejection should be withdrawn.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the

application is in condition for allowance. An early action to that effect is courteously solicited.

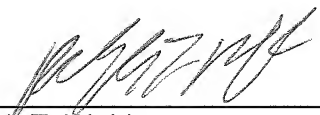
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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